

HB 930 -- COMPASSIONATE USE OF MEDICAL CANNABIS PILOT PROGRAM ACT

SPONSOR: English

This bill establishes the Compassionate Use of Medical Cannabis Pilot Program Act that allows the use of medical marijuana for the treatment of certain debilitating medical conditions under specified circumstances. In its main provisions, the bill:

- (1) Imposes an 8% tax on the retail sale of medical marijuana;
- (2) Prohibits a qualified patient from being subject to arrest, prosecution, or any penalty for the medical use of marijuana if he or she possesses a registry identification card issued by the Department of Health and Senior Services and the quantity of marijuana does not exceed an adequate supply. If the acquisition, possession, cultivation, transportation, or administration of marijuana by a qualified patient is not possible, the legal protections must extend to the qualified patient's primary caregiver if the caregiver's actions are necessary for the qualified patient's medical use of marijuana. A qualified patient or primary caregiver who has not received a registry identification card, but is in compliance with all other provisions in the bill, may present evidence supporting his or her need for medical marijuana for treatment of a debilitating medical condition. The evidence may constitute an affirmative defense to a charge of marijuana possession or cultivation and must be admissible in the courts of the State of Missouri if the evidence otherwise properly qualifies as admissible under the rules of evidence. A qualified patient or primary caregiver must not transport or possess usable marijuana in or upon a motor vehicle unless the usable marijuana is enclosed in a container that is carried in the trunk of the vehicle or enclosed in a container that is not readily accessible from the interior of the vehicle if the vehicle in which the person is traveling does not have a trunk. A violation of these provisions is a class B misdemeanor;
- (3) Prohibits an attending physician from being subject to civil penalty or discipline, arrest or prosecution, penalized in any manner, or denied any right or privilege for specified actions regarding the medical use of marijuana for a patient with a debilitating medical condition;
- (4) Prohibits the seizure of marijuana plants, equipment for their cultivation, and legal amounts of medical marijuana from the possession of a qualified patient if the patient presents specified certification as a medical marijuana patient. A person must not be subject to arrest or prosecution or any offense for merely being in the presence or vicinity of medical marijuana. A qualified patient

must be afforded all the same rights as any other pharmaceutically medicated individual as it pertains to specified actions;

(5) Exempts an individual engaged in or assisting in the medical use of marijuana from the criminal laws of the state for possession, delivery, or production of marijuana; aiding and abetting another in the possession, delivery, or production of marijuana; or any other criminal offense in which possession, delivery, or production of marijuana is an element if specified conditions have been satisfied;

(6) Requires the department to establish and maintain a program for the issuance of registry identification cards to individuals who meet the requirements of these provisions. For adults over 18, the department must issue a registry identification card to any qualified individual who pays a fee in the amount established by the department and provides specified information. The department must verify the information contained in an application and must approve or deny an application within 30 days of receipt of the application. The department may deny an application for specified reasons. Denial of a registry identification card must be considered a final department action, subject to judicial review. Only the person whose application has been denied or, in the case of a person under the age of 18 years of age whose application has been denied, the person's parent or legal guardian, must have standing to contest the department's action. Any person whose application has been denied may not reapply for six months from the date of the denial unless authorized by the authority or a court of competent jurisdiction;

(7) Specifies the required information that must be stated on a registry identification card and the required notification when the specified information changes. The department is allowed to revoke a card as specified in the bill. The department and employees and agents of the department acting within the course and scope of their employment are immune from any civil liability that might be incurred or imposed for the performance of or failure to perform duties required by these provisions;

(8) Requires the department to establish by rule a marijuana grow site registration system to authorize production of marijuana by a registry identification cardholder, a designated primary caregiver who grows marijuana for the cardholder, or a person who is responsible for a marijuana grow site. The system adopted must require a registry identification cardholder to submit an application to the department that includes specified information. The department must issue a marijuana grow site registration card to a registry identification cardholder who has met these requirements. A person who has been issued a registration card

must display the card at the marijuana grow site at all times when marijuana is being produced. A registration card must be obtained and posted for each cardholder for whom marijuana is being produced at a marijuana grow site. All usable marijuana, plants, seedlings, and seeds associated with the production of marijuana for a cardholder by a person responsible for a marijuana grow site are the property of the cardholder and must be provided to the cardholder or, if the marijuana is usable marijuana or an immature marijuana plant, transferred to a registered medical marijuana facility. The department must conduct a criminal records check of any person whose name is submitted as a person responsible for a marijuana grow site. A person convicted of a class A or class B felony for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder for five years from the date of conviction. A person convicted more than once of a class A or class B felony for the offense may not be issued a registration card or produce marijuana for a cardholder;

(9) Allows a registry identification cardholder or the designated primary caregiver of the cardholder to reimburse the person responsible for a marijuana grow site for the costs of labor, supplies, and utilities associated with the production of marijuana for the cardholder. The department may adopt rules imposing a fee in an amount established by the department for the registration of a marijuana grow site;

(10) Requires the department to establish by rule a medical marijuana facility registration system to authorize the transfer of marijuana and immature marijuana plants and specifies the information that must be included in an application for a medical marijuana facility to qualify for registration;

(11) Specifies that the possession of a registry identification card, designated primary caregiver identification card, or proof of registration as a medical marijuana facility does not alone constitute probable cause to search the person or property of the cardholder or otherwise subject the person or property of the cardholder to inspection by any governmental agency. However, the department may inspect a registered medical marijuana facility at any reasonable time to determine whether the facility is in compliance with the provisions of the bill;

(12) Protects lawfully possessed medical marijuana and facilities from property forfeiture laws and confiscation of plants not in excess of those specified in the bill;

(13) Prohibits a professional licensing board from imposing a

civil penalty or taking other disciplinary action against a licensee based on the licensee's medical use of marijuana in accordance with the provisions of the bill or actions taken by the licensee that are necessary to carry out the licensee's role as a designated primary caregiver to a person who possesses a lawful registry identification card. A licensed health care professional may administer medical marijuana to a person who possesses a registry identification card and resides in a licensed health care facility if the administration of pharmaceuticals is within the scope of practice of the professional. Administration of medical marijuana may not take place in a public place or in the presence of a person under 18 years of age. If the medical marijuana is smoked, adequate ventilation must be provided. These provisions cannot require a licensed health care professional to administer medical marijuana or a licensed health care facility to make accommodations for the administration of medical marijuana;

(14) Specifies that a person otherwise allowed to possess, deliver, or produce marijuana for medical use must not be excepted from the criminal laws of this state or be deemed to have established an affirmative defense to criminal charges if the person, in connection with the facts giving rise to the charges does specified prohibited actions;

(15) Requires the information related to registry cardholders and medical marijuana facilities to be confidential and not subject to public disclosure. The department must develop a system by which authorized employees of state and local law enforcement agencies may verify the information at all times;

(16) Specifies that the provisions of the bill must not protect a person from a criminal cause of action based on possession, production, or delivery of marijuana that is not authorized. It is an affirmative defense to a criminal charge of possession or production of marijuana, or any other criminal offense in which possession or production of marijuana is an element, that the person charged with the offense is a person who meets specified conditions. It is not necessary for a person asserting an affirmative defense to have received a registry identification card in order to assert an affirmative defense. However, any defendant proposing to use the affirmative defense under these provisions in a criminal action must, not less than five days before the trial of the cause, file and serve upon the district attorney a written notice of the intention to offer such a defense that specifically states the reasons why the defendant is entitled to assert and the factual basis for the affirmative defense. If the defendant fails to file and serve the notice, the defendant is not permitted to assert the affirmative defense at the trial of the cause unless the court for good cause orders otherwise; and

(17) Specifies that these provisions cannot be construed to require a government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana or an employer to accommodate the medical use of marijuana in any workplace.

The provisions of the bill will expire six years after the effective date.